

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRUCE RICHARD SENATOR,

Plaintiff,

v.

KATHLEEN ALLISON, *et al.*,

Defendants.

Case No. 1:22-cv-00144-JLT-BAK (BAM) (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR CERTIFICATE OF APPEALABILITY

(ECF No. 16)

On February 22, 2022, the Court entered Findings and Recommendations recommending that Plaintiff's motion to proceed in forma pauperis be denied and that Plaintiff be ordered to pay the \$402.00 initial filing fee in full to proceed with this action. On March 24, 2022, the Court adopted the Findings and Recommendations and denied Plaintiff Bruce Richard Senator's motion for leave to proceed *in forma pauperis* ("IFP"). (ECF No. 12.) The Court found that Plaintiff has at least three "strikes" under 28 U.S.C. § 1915(g) and that Plaintiff failed to show that he was in imminent danger of serious physical injury at the time he filed this action. (*Id.*) On the same day, judgment was entered in accordance with the order, and the case was closed. (ECF No. 13.)

On May 2, 2022, Plaintiff filed a notice of appeal of the order denying Plaintiff's motion to proceed IFP dismissing the case and the instant request for a certificate of appealability. (ECF Nos. 15, 16.) A certificate of appealability is necessary to appeal from a final order in a habeas corpus proceeding under 28 U.S.C. § 2254 or a proceeding under § 2255. 28 U.S.C. § 2253(c)(1).

1 However, this requirement does not apply to this case filed under 28 U.S.C. § 1983. Under Rules
2 3 and 4 of the Federal Rules of Appellate Procedure, a certificate of appealability is not required
3 for Plaintiff to appeal the final order in this case. *See* Fed. R. App. P. 3, 4.

4 Accordingly, the Court HEREBY ORDERS that Plaintiff's request for a certificate of
5 appealability, (ECF No. 16), is DENIED.

6
7 IT IS SO ORDERED.

8 Dated: May 11, 2022

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE